



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105**

July 23, 2008

Michael Brown
County CEO
Santa Barbara County
105 East Anapamu Street
Santa Barbara, California 93101

Paul Hamdorf
Lt. Warden
California Dept. of Fish and Game
3602 Inland Empire Boulevard, Suite C-220
Ontario, California 91764

Sheila Soderberg
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, California 93401

Subject: Changes to Response Strategy to Oil in Toro Canyon

Dear Ms. Soderberg and Messrs. Brown and Hamdorf:

As you may know, in 1997 the United States Environmental Protection Agency, Region IX ("EPA") assumed the lead role in a response to oil discharges in Toro Canyon. EPA improved a failed oil/water separator that the Regional Water Quality Control Board ("RWQCB") and the California Department of Fish and Game ("DFG") had installed at the head of an oil seep. EPA improved the system in response to a catastrophic failure that discharged a significant volume of oil into Toro Creek, which runs the length of Toro Canyon to the Pacific Ocean approximately 4.5 miles downstream. Although EPA has maintained the system since that time, EPA's position has been that employing an oil/water separator as a response to a constant, natural oil seep would require a long-term commitment for operation and maintenance from state or local agencies.

The history of the seep parallels the history of growth in Santa Barbara County, beginning in about 1882 with the construction of a mine shaft to capture oil from the natural seep. Rudimentary oil/water separation allowed growing communities to utilize water from the mine shaft until the 1940s, when more potable community water sources became available. Quantities of oil appeared in Toro Creek despite the simple oil/water separation, but in 1992, a

failure of the oil/water separator resulted in a significant volume of oil entering Toro Creek and the first response effort by DFG and the RWQCB. This response effort focused on an improved oil/water separator, from which DFG and the RWQCB had arranged for the disposal of collected oil. Vandalism to that facility in 1997 likely contributed to its failure and release of approximately 3000 gallons of oil into Toro Creek.

At the request of the state, EPA responded to the 1997 discharge and constructed the present oil/water separator at the seep (with modest subsequent improvements to better manage extraordinary precipitation events). EPA constructed the facility to be permanent with the understanding that the state or county would assume long-term operation and maintenance roles. At an expense of several hundred thousand dollars, EPA engineered and constructed the system to separate and collect oil from the seep and return only cleaned water to Toro Creek. In the eleven years that EPA has managed the system, the Toro Canyon watershed has flourished. Nonetheless, without a commitment from the state or county to assume long term management, the system fails to meet the requirements of an oil response as dictated in the National Contingency Plan ("NCP"), being neither timely nor effective in terms on reaching a conclusion to the action, as required at 40 C.F.R. § 300.317(c).

To meet the NCP requirements, EPA anticipates that it must revise the ultimate response strategy to remove the oil/water separator and restore the head of the seep toward its natural condition. The seep likely will not result in the distribution of natural oil in Toro Creek in a manner as occurred when previous systems failed, although, EPA anticipates that there will be some yet unquantified impact on Toro Creek. Oil likely will collect more significantly in the upper reach of the canyon, including in a Santa Barbara County Department of Public Works catchment basin. Significant precipitation events may mobilize such collected oil further down the reach.

EPA has anticipated this action to decommission the system in the absence of long term management commitments, and has been engaged in discussions on alternatives with DFG, Santa Barbara County and the RWQCB for several years. EPA's existing obligated funds for this project are projected to expire by January 2009, and EPA will not be able to access additional oil response funding for this project. EPA has made clear that its funding for federal activity on the response is expiring, and that the interested parties either needed to identify a suitable long-term operation and maintenance plan or modify the remedy to not require long-term operation and maintenance. Accordingly, alternative solutions cannot include continued EPA oversight or contracting.

One solution that the agencies considered in 2007 was for the RWQCB to make funding available through a grant to Santa Barbara County to assume operation and maintenance of the oil/water separator. EPA understands that the RWQCB confirmed the availability of funding, but that Santa Barbara County determined not to apply for the grant. Other solutions involve contracting arrangements with local oil refineries, but no agency has been willing to commit to long term oversight of such contracts.

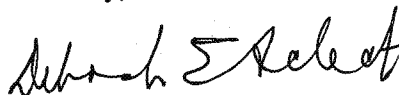
On June 25, 2008, EPA sent a letter to counsel for Santa Barbara County further advising the county of EPA's imminent action to decommission the oil/water separator, because in the absence of long term management by the state or county, EPA's response to the 1997 discharge

fails to be a timely and effective response as required by the NCP. In this letter, EPA again encouraged Santa Barbara County to assume oversight of the oil/water separator. Additionally, EPA encouraged Santa Barbara County to attend the July 2, 2008 meeting in Carpinteria, California, hosted by the DFG, at which the agencies would discuss any final proposals or efforts to avoid decommissioning the oil/water separator. Santa Barbara County did not attend the July 2 meeting, nor to date has it responded to EPA's June 25 letter.

As no acceptable proposal has come forward to provide for long term operation and maintenance of the oil/water separator, it now appears unavoidable that EPA must decommission the system. EPA soon will provide a notice letter to potentially affected property owners adjacent to Toro Creek. The letter will state the basis and potential impacts of restoring the natural condition of the seep, including the addition of approximately 600 gallons per month of crude oil into the canyon.

If Santa Barbara County or a state agency now would assume long-term operation and maintenance of the existing oil/water separator, EPA would leave the system in place and provide the minimal training required. EPA urges Santa Barbara County to work with the appropriate state agencies to assume control and long term operation and maintenance of the oil/water separator system, so that the virtually inevitable releases of oil into Toro Canyon can be avoided. EPA firmly believes that this is the most appropriate and environmentally responsible course of action. Please feel free to contact me about the system by calling (415) 972-3132.

Sincerely,



for Daniel A. Meer, Chief
Response, Planning and Assessment Branch
Superfund Division, Region IX
U.S. Environmental Protection Agency